



W.P(MD)No.9226 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9226 of 2022

and

W.M.P.(MD)Nos.6586 & 6588 of 2022

A.Subramaniam

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Project Officer,
District Rural Development Division,
District Collector Office,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 08.04.2017 passed by the 2nd Respondent and quash the same and direct the Respondents to allot one house to the petitioner from Samuthuvapuram in Nallur Panchayat , kanyakumari District based on the petitioner's representation dated 18.10.2021 within the time frame.

For Petitioner : Mr.C.Ezhilarasu

For Respondents : Mr.M.Prakash
Additional Government Pleader for R1 & R2



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ORDER

Heard both sides.

2. The petitioner filed W.P.(MD)No.7937 of 2010 seeking allotment of a house in Samathuvapuram in Nallur Panchayat, Kanyakumari District. The writ petition was disposed of on 08.02.2017 in the following terms:-

“5. On a perusal of the guidelines, it is seen that the residence of prospective allottee is not a condition which is mandatory in nature, but only directory. As per the guidelines issued in G.O.Ms.No.59, RD & PR (SGS.1) Department dated 16.04.2008, it is stated that while the allotment is being made to the beneficiaries, it should be done as far as possible to the persons, who are residing in the village where the Samathuvapuram is existing. As such, whenever it is found that there are no sufficient number of persons, who are eligible for allotment in the village where the Samathuvapuram is situated, there is no impediment for the respondents to allot houses for the persons, who are residing in the neighbouring villages also. The petitioner has come out with the ground that some of the beneficiaries, who do not belong to Ramapuram Village, have been allotted with a house, which aspect has not been countered by the respondents. Hence, the impugned order passed by the second respondent is liable to be set aside.

6. In the result, this Writ Petition is allowed and consequently, the impugned order passed by the second respondent dated 19.02.2010 is hereby set aside. The petitioner is granted liberty to make a fresh application to the second respondent seeking for allotment of a house in Samathuvapuram in Ramapuram Village panchayat and on receipt of such application, the second respondent shall consider the same in the light of the above observations and pass appropriate



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orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order.”

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Contending that this order has not been complied with, the petitioner filed Contempt Petition (MD)No.1140 of 2019. When the matter was taken up for hearing, the respondents produced the copy of the proceedings dated 08.04.2017 stating that the petitioner's claim was rejected on merits. Challenging the same, the present writ petition came to be filed.

3. When the matter was taken up on 22.06.2022, the following order was passed:-

“The petitioner is an applicant for allotment of a house in Samathuvapuram, Nallur. The petitioner was originally identified as a beneficiary. Later his name was struck off on the ground that he is residing elsewhere. The petitioner has furnished proof to show that he is residing in Nallur and that only for eking out his livelihood, he is presently residing elsewhere.

2. I find considerable force in the petitioner's counsel's contention. But the learned Special Government Pleader would state that as on date, there are no vacancies. The respondents will conduct a surprise inspection and make a statement before this Court in the form of affidavit as to whether the original allottees or their legal heirs are still in occupation or there has been changes. If there is any breach of condition, certainly the allotment is liable to be cancelled. If that be so, vacancy may arise and the petitioner may probably be entitled to allotment.

3. For filing of affidavit, call this case on 25.07.2022.”



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The respondent have conceded before this Court that as many as 17 allottees have unauthorizedly sold the allotted houses and that enquiry is being conducted. It is conceded by the respondents that an allottee cannot sell a Samathuvapuram house. If such sale had taken place, the allotment itself is liable to be cancelled and possession has to be resumed by the respondents. Enquiry is proposed to be held on 28.12.2023. Final order will be passed thereafter and the resumption process may take some more time. I would expect the respondents to conclude the same within a period of five months from today. In one of the resulting vacancies, the respondents shall accommodate the petitioner.

4. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

15.12.2023

Index : Yes / No
Internet : Yes/ No
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To

1.The District Collector,
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Kanyakumari District,
Kanyakumari.

2.The Project Officer,
District Rural Development Division,
District Collector Office,



Nagercoil,
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G.R.SWAMINATHAN, J.

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